

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 -against-

6 GENARO GARCIA LUNA,

7 Defendant.

19-CR-576 (BMC)

United States Courthouse  
Brooklyn, New York

January 21, 2020  
10:00 a.m.

8 -----x  
9 TRANSCRIPT OF CRIMINAL CAUSE FOR STATUS CONFERENCE  
10 BEFORE THE HONORABLE BRIAN M. COGAN  
11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES

13 For the Government:

UNITED STATES ATTORNEY'S OFFICE  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, New York 11201  
BY: ERIN REID, AUSA  
MICHAEL ROBOTTI, AUSA  
RYAN HARRIS, AUSA

16 For the Defendant:

17 THE LAW FIRM OF CESAR DECASTRO, ESQ.  
18 7 World Trade Center, 34th Floor  
New York, New York 10007  
BY: CESAR DECASTRO, ESQ.  
19 VALERIE GOTLIB, ESQ.

20 Court Reporter:

Georgette K. Betts, RPR, FCRR, CCR  
21 Phone: (718)804-2777  
22 Fax: (718)804-2795  
23 Email: Georgetteb25@gmail.com

24 Proceedings recorded by mechanical stenography. Transcript  
25 produced by computer-aided transcription.

*GEORGETTE K. BETTS, RPR, FCRR, CCR*  
*Official Court Reporter*

1 THE COURTROOM DEPUTY: United States versus Luna.  
2 Docket number 19-CR-576.

3 Counsel, please state your appearances starting with  
4 the government.

5 MS. REID: Good morning, Your Honor. Erin Reid for  
6 the government along with Michael Robotti and Ryan Harris also  
7 from the government.

8 THE COURT: All right. Good morning.

9 MR. DECASTRO: Good morning, Your Honor, Cesar  
10 DeCastro and Valerie Gotlib for Mr. Garcia Luna.

11 THE COURT: Good morning. Good morning, Mr. Luna.

12 THE DEFENDANT: Good morning, sir.

13 THE COURT: I notice we have a Spanish interpreter  
14 that's been previously sworn for Mr. Garcia Luna.

15 Initial status conference, what's the initial  
16 status.

17 MS. REID: Your Honor, as the government noted in  
18 its letter of Friday, we are asking the Court to designate  
19 this as a complex case. There's two reasons for the  
20 government's request, which I believe defense counsel joins  
21 in. The first is we're expecting voluminous discovery in this  
22 case, Your Honor. Obviously, the charged conduct spans two  
23 decades and the records that we expect to produce include  
24 financial records, electronic evidence, property records,  
25 immigration records as well as evidence provided by foreign

1 countries pursuant to MLAT.

2 In addition, Your Honor, the second reason for our  
3 request is we're expecting some CIPA litigation. Really there  
4 is classified material in this case and we expect that that  
5 process will take some time.

6 THE COURT: Okay, so you're asking for a complex  
7 designation for Speedy Trial purposes.

8 MS. REID: Yes, Your Honor.

9 THE COURT: Any objection from the defense?

10 MR. DECASTRO: No, Your Honor.

11 THE COURT: All right. Based on the government's  
12 proffer, I find that the case is complex and will be treated  
13 as such for Speedy Trial purposes.

14 Next, looking at the agenda that you gave me, how  
15 are we on the defendant completing a financial affidavit for  
16 purposes of having CJA counsel?

17 MR. DECASTRO: So -- sorry about that, Your Honor.

18 THE COURT: It's okay.

19 MR. DECASTRO: We do not have a financial affidavit,  
20 and I'm going to tell you a little bit more on that. So I  
21 would think, based on my review thus far, that he wouldn't  
22 normally qualify for CJA counsel, however, it's been pretty  
23 difficult. So since his arrest in Texas on December 10th he's  
24 had very little to no contact with his family so it has to  
25 have been through counsel. He was arrested on December 10th

1 in Texas, he was placed in the SHU in Texas with no phone  
2 calls, no emails, no visitation except for counsel. He  
3 arrived here on January 3rd, about three weeks -- more than  
4 three weeks later and arraigned in magistrate's court.

5 So we -- and since that point in time he was also  
6 placed in the SHU at the MDC, and as the Court knows that's  
7 23-hour lockdown. And so his only visits were with me, and I  
8 should point out that after waiting many hours, I was able to  
9 see him and in a situation where they would shackle him and I  
10 had to work very hard with legal counsel at the MDC to get  
11 them to start telling the staff that you cannot cuff and  
12 shackle people when they are meeting with counsel in the SHU.

13 So it's been pretty trying. He's not had the  
14 ability to reach out to his family to even talk about assets,  
15 talk about the finances, get documents together to determine  
16 whether there is counsel that he can hire that has comfort  
17 with certain assets and is willing to come into the case.

18 I have been visiting with him pretty continuously,  
19 so I've been trying to sort of work on that front as well. He  
20 has now been -- he's been out of the SHU for about nine days.  
21 That time period he's -- for some reason, the average wait  
22 time for us is about two hours to see him. We see him and  
23 then we're usually at a point where there is a count or some  
24 reason we have to end the visit. So we are now starting that  
25 process.

1           So what I would ask is the Court's indulgence in  
2     that regard. We are working. So I am proceeding under the  
3     assumption that I am going to be his counsel. We are working  
4     hard. I know that -- and we are working well together. So  
5     I'd ask the Court's indulgence for a little bit of time on  
6     that so that we can then apprise the Court of what's going on  
7     there.

8           I guess I should also note that complicating matters  
9     further is that we just learned, today is Tuesday, on Sunday  
10    that -- or I should say I learned and Mr. Garcia learned that  
11    on Sunday the Mexican financial authorities had blocked him  
12    from the Mexico financial system. So what that -- as it has  
13    been explained to me, is that he nor his companies nor his  
14    family can use the Mexican financial system which, again, is  
15    another impediment for him in terms of hiring counsel and of  
16    course now he has to seek counsel in Mexico to deal with that  
17    issue as well.

18           So we would ask that maybe you gave us a date by  
19    which we could apprise the Court in a letter --

20           THE COURT: Just do it a week before the next  
21    conference --

22           MR. DECASTRO: Perfect.

23           THE COURT: -- and what you're saying is fine, I  
24    don't see any other way to do it at this point, so let's do  
25    that.

1 MR. DECASTRO: Okay.

2 THE COURT: Started discovery yet?

3 MS. REID: Your Honor, we're in the process of  
4 reviewing the discovery and we'll discuss with defense counsel  
5 a schedule. We're expecting to start providing it on a  
6 rolling basis.

7 THE COURT: Okay, and you want a date 60 days out;  
8 is that right?

9 MS. REID: Yes, thank you.

10 MR. DECASTRO: So just on discovery, I mean one  
11 thing is --

12 THE COURT: Yes.

13 MR. DECASTRO: -- it's been a month he's not had  
14 anything to review. So I can talk to the government about it,  
15 but I don't know if we want to sort of agree on where we'll  
16 be --

17 THE COURT: Well, let me say what I'd like to happen  
18 and the government can tell me if it can't happen. I'd like  
19 him to get a lot of discovery in 30 days, okay? Just a lot.  
20 I know a lot is a relative term but it seems to me you ought  
21 to be able to make some initial production in 30 days so that  
22 his attorney can start looking at it 30 days before the next  
23 conference.

24 MS. REID: That's reasonable, Your Honor.

25 THE COURT: Let's do that. I do want to urge the

1 government to get ahead of the discovery problems that could  
2 come in this case. Okay? Let's really be diligent in  
3 producing as quickly as you reasonably can.

4 MS. REID: Yes, we will, Your Honor.

5 THE COURT: Okay. Ms. Clarke, can we have -- sorry  
6 anything else?

7 MR. DECASTRO: On that front I'll talk to the  
8 government about this, but it can be extremely helpful if  
9 Mr. Garcia Luna is going to remain detained in this case and  
10 given the special, seems like, security measures that the  
11 Bureau of Prisons has put in place --

12 THE COURT: I thought you said he was out of the  
13 SHU.

14 MR. DECASTRO: He's out of the SHU but there's some  
15 type of security measures in place because I don't normally  
16 wait two hours each time to see a client. Something is going  
17 on and they're telling us that. They're apologizing. But I'm  
18 concerned that he will not then be able to even go and review  
19 some of the discovery. So I guess the government can work  
20 with me and counsel at the BOP that maybe he'll have access to  
21 it on a laptop or something like that.

22 THE COURT: All right. I'll ask the government to  
23 do that.

24 MS. REID: We'll discuss it, Your Honor, yes.

25 THE COURT: Let's not do security by association

1 here. Let's look at this defendant and see what kind of  
2 security is needed.

3 MS. REID: Yes, Your Honor.

4 THE COURT: Anything else before we pick a date?

5 MR. DECASTRO: The only thing -- and I apologize it  
6 was not on the agenda, just a quick question. Does the  
7 Court -- if we are going to make a bail application, put a  
8 bail package together, does the Court want us to go to the  
9 magistrate's court first or here?

10 THE COURT: I'd like you to go to magistrate's court  
11 first, I'll take an appeal if you don't get what you want, but  
12 the magistrate judge will hear it in the first instance.

13 MR. DECASTRO: Okay. Thank you, Your Honor.

14 THE COURT: A date.

15 THE COURTROOM DEPUTY: April 2nd at 10 a.m.

16 THE COURT: Okay with everybody?

17 MS. REID: That's fine, Your Honor.

18 MR. DECASTRO: That works.

19 MS. REID: I would just ask to exclude the time in  
20 the interest of justice.

21 THE COURT: The time is excluded on the basis that I  
22 found it to be a complex case.

23 Okay, thank you very much. See you in April.

24 THE DEFENDANT: Thank you, Judge.

25 THE COURT: Sure.



(Matter concluded.)

\* \* \* \* \*

I certify that the foregoing is a correct transcript from the  
record of proceedings in the above-entitled matter.

s/ Georgette K. Betts

February 17, 2020

GEORGETTE K. BETTS

DATE